



titanium and non-titanium alloy structures. Using a computer-aided design (CAD) process, Opposer works with customers needing fabrication and manufacturing, by laser, of high performance metal parts, including specifically three-dimensional titanium components, components for aerospace applications, and a broad range of commercial applications.

2. Opposer has, through one or more of its divisions or related companies, used and referred to its technologies, processes, and services for component manufacturing as the "Laser Additive Manufacturing" technology; or simply "laser additive manufacturing." Opposer has, since well prior to Applicant's filing of its application, and upon information and belief prior to any use of LASER ADDITIVE by applicant, used "Laser Additive" or "Laser Additive Manufacturing" to promote Opposer's particular technique, process, application, or services that are offered to customers and used in Opposer's component manufacturing business. Through this use and promotion and upon information and belief, customers and others in the field have come to identify "Laser Additive" or "Laser Additive Manufacturing" as identifying Opposer or its component manufacturing services or the source for those services.
3. In the alternative, to the extent Opposer or Applicant has used the mark of the Application, that use of "laser additive" or "Laser Additive Manufacturing" has been in a merely descriptive, if not a generic sense, to describe a technique for the fabrication of titanium and other metals into near shapes using a computer-controlled high-power laser and powdered metal, and not as a reference to the source for a particular product or service.

4. In addition and upon information and belief, others both within and outside the component manufacturing industry have used "laser additive" or "laser additive manufacturing" in a similarly descriptive fashion or in a generic fashion. In other words and upon information and belief, if Opposer's prior uses of "laser additive" or "laser additive manufacturing" do not establish Opposer's senior rights, then "laser additive" or "laser additive manufacturing" has been used in a merely descriptive sense to refer to the technique or process and not as a reference to a particular technology pursued by a specific entity, or as a reference to Applicant, or even as a reference to the availability of laser additive manufacturing techniques or applications or products from some specific but unknown source.
5. In light of the above uses of "laser additive" and "laser additive manufacturing," Opposer believes and therefore alleges that it has priority to any claim of exclusive right to use "laser additive." In the alternative, Opposer believes and therefore alleges that "laser additive" is merely descriptive and/or generic and is understood to be merely a shorthand reference for the process or technique of laser additive manufacturing.
6. Opposer believes that it will be damaged by the registration of the mark LASER ADDITIVE, as shown in Trade Mark Application Serial No.75/224,137, since whatever rights the owner of the mark of the application might have, those rights are junior to Opposer's rights; or, in the alternative, the mark of the application is merely descriptive and/or a generic term for the goods and services provided or intended to be provided by the Applicant, namely machines using laser energy for manufacturing mechanical components, metal parts, new and repaired engine

components for aerospace applications, injection mold tools, die casts, passive and active electronic components, and bio-sensors; and custom manufacture of mechanical components, metal parts, new and repaired engine components for aerospace applications, injection mold tools, die casts, passive and active electronic components, and bio-sensors, using laser energy; and material treatment, namely, transporting and depositing organic cells using laser energy for bio-medical applications.

7. Upon information and belief, the Applicant's services, as listed in the application opposed, are or will be if use begins, closely related to the field of Opposer's goods and services, in that Opposer's goods and services are advertised specifically for purchase or use by the same or similar customers, namely those seeking direct and rapid fabrication or manufacturing of three-dimensional metal components from computer-based models, using laser energy, and without the use of molds or dies.
8. If used, the use by the Applicant of the mark sought to be registered is likely to cause a belief that Applicant's goods or services are associated, affiliated, or connected with the Opposer or with Opposer's goods and services.
9. Opposer believes that it will be damaged by the registration of the mark LASER ADDITIVE, as shown in Application Serial No. 76/224,137, since prospective and actual purchaser of services from Applicant will be likely to believe that such services emanate from, or are in some way sponsored by, or associated or affiliated with Opposer.

10. The mark sought to be registered by Applicant, when used in connection with the services recited in Application Serial No. 76/224,137 resembles Opposer's common law mark "laser additive" or "laser additive manufacturing," and thus if used by Applicant will falsely suggest a connection, association, or affiliation with the Opposer, is likely to cause confusion, or to cause mistake, or to deceive, all to the damage of Opposer, and therefore the registration of Applicant's mark should be refused under the provisions of 15 U.S.C. § 1052(d).
11. In the alternative, the mark sought to be registered by Applicant when used in connection with the goods recited in Application Serial No. 75/224,137 is merely descriptive and/or generic of the technique or process used by or with those goods or services. If registered such that Applicant would have exclusive rights to use LASER ADDITIVE as a trademark or service mark, Applicant would have an unfair competitive advantage, all to the damage of Opposer, and therefore the registration of Applicant's mark should be refused under the provisions of 15 U.S.C. § 1052(e).
12. For the foregoing reasons, Opposer believes that registration of the mark sought to be registered by Applicant will seriously damage Opposer.

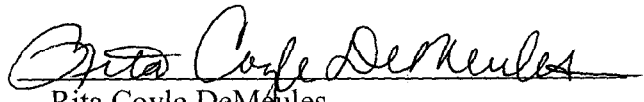
**WHEREFORE**, Opposer believes it will be damaged by registration of the mark sought to be registered by Applicant and prays that such registration be denied.

The filing fee for this opposition in the amount of \$300.00 is enclosed. If any further fees are needed, please charge the undersigned attorney's Deposit Account No. 18-1650.

February 13, 2003

Respectfully Submitted,

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L.L.P.**

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02-14-2003

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**RITA COYLE DEMEULES**  
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February 13, 2003

**Via Federal Express**

Commissioner of Patents and Trademarks  
ATTN: TTAB FEE  
2900 Crystal Drive  
Arlington, VA 22202

Re: MTS Systems Corporation, Opposer, vs.  
Optomec Design Company  
Trademark Application, Serial No. 76/224,137  
Our File No. 121388-0028

Dear Sir/Madam:

Enclosed for filing please find the following:

1. Notice of Opposition of MTS Systems Corporation;
2. Check in the amount of \$300.00 to cover the filing fees; and
3. Self-addressed, stamped, return receipt card.

Please direct all communications to the undersigned writer at Robins, Kaplan, Miller & Ciresi, L.L.P., 2800 LaSalle Plaza, 800 LaSalle Avenue, Minneapolis, MN 55403-2015; telephone (612) 349-8514.

Commissioner of Patents and Trademarks  
February 13, 2003  
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If the enclosed fees are deficient in any amount, please charge the difference to our deposit account number 18-1650. If the fees submitted are an overpayment, please credit our account accordingly.

Very truly yours,

ROBINS, KAPLAN, MILLER & CIRESI L.L.P.

  
Rita Coyle DeMeules

RCD/ms  
Enclosures

c: MTS Systems Corporation (2417) (w/enc.)